

AMENDED IN ASSEMBLY APRIL 1, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2992

Introduced by Assembly Member La Malfa

February 22, 2008

An act to amend ~~Section 4581 of the Public Resources Code, relating to forestry~~ Sections 927.2, 927.6, 927.7, and 927.11 of the Government Code, relating to resource conservation districts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2992, as amended, La Malfa. ~~Forestry: timber harvesting plan.~~ *Resource conservation districts California: Prompt Payment Act.*

Existing law generally provides that a state agency that fails to make any payment for goods and services to certain entities pursuant to a contract shall be subject to an interest penalty fee, according to specified criteria.

This bill would include resource conservation districts within the list of entities entitled to interest penalty fees for the failure of a state agency to make payment for goods and services to a resource conservation district pursuant to a contract, as specified.

~~Existing law prohibits a person from conducting timber operations unless a timber harvesting plan, prepared by a registered professional forester, has been submitted to the Department of Forestry and Fire Protection for those operations.~~

~~This bill would make technical, nonsubstantive changes to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 927.2 of the Government Code is amended*
2 *to read:*

3 927.2. The following definitions apply to this chapter:

4 (a) “Claim schedule” means a schedule of invoices prepared
5 and submitted by a state agency to the Controller for payment to
6 the named claimant.

7 (b) “Grant” means a signed final agreement between any state
8 agency and a local government agency or organization authorized
9 to accept grant funding for victim services or prevention programs
10 administered by any state agency. Any such grant is a contract and
11 subject to this chapter.

12 (c) “Invoice” means a bill or claim that requests payment on a
13 contract under which a state agency acquires property or services
14 or pursuant to a signed final grant agreement.

15 (d) “Medi-Cal program” means the program established pursuant
16 to Chapter 7 (commencing with Section 14000) of Part 3 of
17 Division 9 of the Welfare and Institutions Code.

18 (e) “Nonprofit public benefit corporation” means a corporation,
19 as defined by subdivision (b) of Section 5046 of the Corporations
20 Code, that has registered with the Department of General Services
21 as a small business.

22 (f) “Nonprofit service organization” means a nonprofit entity
23 that is organized to provide services to the public.

24 (g) “Reasonable cause” means a determination by a state agency
25 that any of the following conditions are present:

26 (1) There is a discrepancy between the invoice or claimed
27 amount and the provisions of the contract or grant.

28 (2) There is a discrepancy between the invoice or claimed
29 amount and either the claimant’s actual delivery of property or
30 services to the state or the state’s acceptance of those deliveries.

31 (3) Additional evidence supporting the validity of the invoice
32 or claimed amount is required to be provided to the state agency
33 by the claimant.

34 (4) The invoice has been improperly executed or needs to be
35 corrected by the claimant.

36 (5) The state agency making the determination or the claimant
37 involved has been subject to a computing or accounting failure
38 related to the Year 2000 Problem.

1 (h) “Received by a state agency” means the date an invoice is
2 delivered to the state location or party specified in the contract or
3 grant or, if a state location or party is not specified in the contract
4 or grant, wherever otherwise specified by the state agency.

5 (i) “Required payment approval date” means the date on which
6 payment is due as specified in a contract or grant or, if a specific
7 date is not established by the contract or grant, 30 calendar days
8 following the date upon which an undisputed invoice is received
9 by a state agency.

10 (j) “Resource conservation district” means a resource
11 conservation district established pursuant to Division 9
12 (commencing with Section 9001) of the Public Resources Code.

13 ~~(j)~~

14 (k) “Revolving fund” means a fund established pursuant to
15 Article 5 (commencing with Section 16400) of Division 4 of Title
16 2.

17 ~~(k)~~

18 (l) “Small business” means a business certified as a “small
19 business” in accordance with subdivision (d) of Section 14837.

20 ~~(l)~~

21 (m) “Small business” and “nonprofit organization” mean, in
22 reference to providers under the Medi-Cal program, a business or
23 organization that meets all of the following criteria:

- 24 (1) The principal office is located in California.
25 (2) The officers, if any, are domiciled in California.
26 (3) If a small business, it is independently owned and operated.
27 (4) The business or organization is not dominant in its field of
28 operation.

29 (5) Together with any affiliates, the business or organization
30 has gross receipts from business operations that do not exceed
31 three million dollars (\$3,000,000) per year, except that the Director
32 of Health Services may increase this amount if the director deems
33 that this action would be in furtherance of the intent of this chapter.

34 ~~(m)~~

35 (n) “Year 2000 Problem” has the same meaning as that set forth
36 in subdivision (a) of Section 3269 of the Civil Code.

37 SEC. 2. Section 927.6 of the Government Code is amended to
38 read:

39 927.6. (a) State agencies shall pay applicable penalties, without
40 requiring that the claimant submit an additional invoice for these

1 amounts, whenever the state agency fails to submit a correct claim
2 schedule to the Controller by the required payment approval date.
3 The penalty shall cease to accrue on the date the state agency
4 submits the claim schedule to the Controller for payment, and shall
5 be paid for out of the state agency's funds. If the claimant is a
6 *resource conservation district*, a certified small business, a
7 nonprofit organization, a nonprofit public benefit corporation, or
8 a small business or nonprofit organization that provides services
9 or equipment under the Medi-Cal program, the state agency shall
10 pay to the claimant a penalty of one-quarter of 1 percent of the
11 amount due, per calendar day, from the required payment date.
12 However, a nonprofit organization shall only be eligible to receive
13 a penalty payment if it has been awarded a contract or grant in an
14 amount less than five hundred thousand dollars (\$500,000).

15 (b) For all other businesses, the state agency shall pay a penalty
16 at a rate of 1 percent above the rate accrued on June 30 of the prior
17 year by the Pooled Money Investment Account, not to exceed a
18 rate of 15 percent, except that, if the amount of the penalty is
19 seventy-five dollars (\$75) or less, the penalty shall be waived and
20 not paid by the state agency. On an exception basis, state agencies
21 may avoid payment of penalties, for failure to submit a correct
22 claim schedule to the Controller by the required payment approval
23 date, by paying the claimant directly, from the state agency's
24 revolving fund within 45 calendar days following the date upon
25 which an undisputed invoice is received by the state agency.

26 *SEC. 3. Section 927.7 of the Government Code is amended to*
27 *read:*

28 927.7. The Controller shall pay claimants within 15 calendar
29 days of receipt of a correct claim schedule from the state agency.
30 If the Controller fails to make payment within 15 calendar days
31 of receipt of the claim schedule from a state agency, the Controller
32 shall pay applicable penalties to the claimant without requiring
33 that the claimant submit an invoice for these amounts. Penalties
34 shall cease to accrue on the date full payment is made, and shall
35 be paid for out of the Controller's funds. If the claimant is a
36 *resource conservation district*, a certified small business, a
37 nonprofit organization, a nonprofit public benefit corporation, or
38 a small business or nonprofit organization that provides services
39 or equipment under the Medi-Cal program, the Controller shall
40 pay to the claimant a penalty of one-quarter of 1 percent of the

amount due, per calendar day, from the 16th calendar day following receipt of the claim schedule from the state agency. However, a nonprofit organization shall only be eligible to receive a penalty payment if it has been awarded a contract or grant in an amount less than five hundred thousand dollars (\$500,000). For all other businesses, the Controller shall pay penalties at a rate of 1 percent above the rate accrued on June 30 of the prior year by the Pooled Money Investment Account, not to exceed a rate of 15 percent, except that, if the amount of the penalty is seventy-five dollars (\$75) or less, the penalty shall be waived and not paid by the Controller.

SEC. 4. Section 927.11 of the Government Code is amended to read:

927.11. (a) Except in the case of a contract with a *resource conservation district*, a certified small business, a nonprofit organization, or a nonprofit public benefit corporation, if an invoice from a business under a contract with the Department of Forestry and Fire Protection would become subject to late payment penalties during the annually declared fire season, as declared by the Director of Forestry and Fire Protection, then the required payment approval date shall be extended by 30 calendar days.

(b) No nonprofit public benefit corporation shall be eligible for a late payment penalty if a state agency fails to make timely payment because no Budget Act has been enacted.

(c) If the Director of Finance determines that a state agency or the Controller is unable to promptly pay an invoice as provided for by this chapter due to a major calamity, disaster, or criminal act, then otherwise applicable late payment penalty provisions contained in Section 927.7 shall be suspended except as they apply to a claimant that is either a *resource conservation district*, a certified small business, a nonprofit organization, a nonprofit public benefit corporation, or a small business or nonprofit organization that provides services or equipment under the Medi-Cal program. The suspension shall remain in effect until the Director of Finance determines that the suspended late payment penalty provisions of this section should be reinstated.

(d) Except as provided in subdivision (b), in the event a state agency fails to make timely payment because no Budget Act has been enacted, penalties shall continue to accrue to a *resource*

1 *conservation district, a certified small business, or a nonprofit*
2 *organization* until the time that the invoice is paid.

3 ~~SECTION 1. Section 4581 of the Public Resources Code is~~
4 ~~amended to read:~~

5 ~~4581. A person shall not conduct timber operations unless a~~
6 ~~timber harvesting plan, prepared by a registered professional~~
7 ~~forester, has been submitted for those operations to the department~~
8 ~~pursuant to this article. The plan shall be required in addition to~~
9 ~~the license required in Section 4571.~~